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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,227	08/13/2001	Stephen F. Gass	SDT 304	8817
27630	7590	10/06/2003	EXAMINER	
SD3, LLC 22409 S.W. NEWLAND ROAD WILSONVILLE, OR 97070			ASHLEY, BOYER DOLINGER	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

NY

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/929,227	GASS ET AL.
	Examiner Boyer D. Ashley	Art Unit 3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
  - 5) Claim(s) \_\_\_\_\_ is/are allowed.
  - 6) Claim(s) \_\_\_\_\_ is/are rejected.
  - 7) Claim(s) \_\_\_\_\_ is/are objected to.
  - 8) Claim(s) 1-20 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \*    c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a)  The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

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## DETAILED ACTION

1. Upon further review of the restriction requirement it has been henceforth withdrawn in view of the following restriction requirement.

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-7, drawn to a woodworking machine having a brake component with a ready position spaced apart from the cutting tool, classified in class 83, subclass 62.1.
  - II. Claims 8-11, drawn to a woodworking machine having an actuator adapted to move the brake at an acceleration of over 2000 feet per second squared and with use of multiple springs, classified in class 83, subclass 62.1.
  - III. Claims 13-18, drawn to woodworking machine having braking component with first and second regions, classified in class 83, subclass 62.1.

The inventions are distinct, each from the other because of the following reasons:

Claim 19 is in no group and will be examined with the elected invention.

2. Inventions of Groups I-III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. For example, the braking component with a ready position spaced apart from the cutting tool as 1/8 or 1/4 of inch of Group I could be used without the 100 lbs force spring and acceleration of 500 feet per second squared of Group III; and conversely, the 100 lbs force spring and acceleration of 500 feet per

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second squared of Group III could be used without the braking spacing of Group I. See MPEP § 806.05(d).

3. If the applicant elects Group I above the applicant must further elect between the following groups.

- A. Claims 2-5, drawn to a woodworking machine having brake for engaging the teeth of the saw blade, classified in class 83.
- B. Claim 6, drawn to a woodworking machine having brake to lade spacing of 1/8 of an inch, classified in class 83.
- C. Claim 7, drawn to a woodworking machine having brake to blade spacing of  $\frac{1}{4}$  of an inch, classified in class 83.

4. Claim 1 is in no group and will be examined with the elected invention.

Claim 1 links the inventions of Groups A-C. The restriction requirement of the linked inventions is subject to the nonallowance of the linking claim 1. Upon the allowance of the linking claim, the restriction requirement as to the linked inventions shall be withdrawn and any claims depending from or otherwise including all the limitations of the allowable linking claims will be entitled to examination in the instant application. Applicants are advised that if any such claims depending from or including all the limitations of the allowable linking claims is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the

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provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP 804.01.

5. Inventions of Groups A-C are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. For example, the teeth engaging brake of Group I could be used without the blade to brake spacing of  $\frac{1}{4}$  of an inch of Group III; and conversely, the brake to blade spacing of  $\frac{1}{4}$  of an inch of Group III could be used without the teeth engaging brake of Group I. See MPEP § 806.05(d).

6. If the applicant elects Group II above the applicant must further elect between the following groups.

- A. Claim 9, drawn to a woodworking machine having brake with an acceleration of over 500 feet per second squared, classified in class 83.
- B. Claim 10, drawn to a woodworking machine having brake with an acceleration of over 2000 feet per second squared, classified in class 83.
- C. Claims 11-12, drawn to a woodworking machine having brake with multiple springs with at least 50 lbs force, classified in class 83.

7. Claims 8 and 20 are in no group and will be examined with the elected invention. Claims 8 and 20 link the inventions of Groups A-C. The restriction requirement of the linked inventions is subject to the nonallowance of the linking claims 8 and 20. Upon the allowance of the linking claim, the restriction requirement as to the linked inventions shall be withdrawn and any claims depending from or otherwise including all the limitations of the allowable linking claims will be entitled to examination in the instant

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application. Applicants are advised that if any such claims depending from or including all the limitations of the allowable linking claims is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP 804.01.

8. Inventions of Groups A-C are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. For example, the brake with an acceleration of over 500 feet per second squared of Group I could be used without the brake with multiple springs having at least 50 lbs force of Group III; and conversely, the brake with multiple springs having at least 50 lbs force of Group III could be used without the brake with an acceleration of over 500 feet per second squared of Group I. See MPEP § 806.05(d).

9. If the applicant elects Group III above the applicant must further elect between the following groups.

- A. Claim 15, drawn to a woodworking machine having a spring brake with at least 50lbs force, classified in class 83.
- B. Claim 16, drawn to a woodworking machine having a spring brake with at least 100 lbs force, classified in class 83.

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C. Claims 17, drawn to a woodworking machine having brake with an acceleration of 500 feet per second squared, classified in class 83.

10. Claim 13-14 and 18 are in no group and will be examined with the elected invention.

Claim 13 links the inventions of Groups A-C. The restriction requirement of the linked inventions is subject to the nonallowance of the linking claim 13. Upon the allowance of the linking claim, the restriction requirement as to the linked inventions shall be withdrawn and any claims depending from or otherwise including all the limitations of the allowable linking claims will be entitled to examination in the instant application. Applicants are advised that if any such claims depending from or including all the limitations of the allowable linking claims is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP 804.01.

11. Inventions of Groups A-C are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. For example, the brake with an acceleration of over 500 feet per second squared of Group C could be used without the spring brake with at least 50 lbs force of Group I; and conversely, the brake with at least 50 lbs force

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of Group I could be used without the brake with an acceleration of over 500 feet per second squared of Group III. See MPEP § 806.05(d).

12. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

13. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

14. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

15. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 703-308-1845. The examiner can normally be reached on Monday-Thursday 7:30-6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

*BDA*  
Boyer D. Ashley  
Primary Examiner  
Art Unit 3724

BDA  
September 4, 2003